

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 1675-01
Bill No.: HB 1095
Subject: Drugs and Controlled Substances; Crimes and Punishment
Type: Original
Date: March 26, 2019

Bill Summary: This proposal modifies provisions for marijuana-related offenses.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND				
FUND AFFECTED	FY 2020	FY 2021	FY 2022	Fully Implemented (FY 2026)
General Revenue	Could exceed \$157,175	Could exceed \$778,038	Could exceed \$1,184,936	Could exceed \$1,328,713
Total Estimated Net Effect on General Revenue	Could exceed \$157,175	Could exceed \$778,038	Could exceed \$1,184,936	Could exceed \$1,328,713

ESTIMATED NET EFFECT ON OTHER STATE FUNDS				
FUND AFFECTED	FY 2020	FY 2021	FY 2022	Fully Implemented (FY 2026)
Total Estimated Net Effect on <u>Other</u> State Funds	\$0	\$0	\$0	\$0

Numbers within parentheses: () indicate costs or losses. This fiscal note contains 10 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS				
FUND AFFECTED	FY 2020	FY 2021	FY 2022	Fully Implemented (FY 2026)
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)				
FUND AFFECTED	FY 2020	FY 2021	FY 2022	Fully Implemented (FY 2026)
General Revenue	0 FTE	<6 FTE>	<9 FTE>	<10 FTE>
Total Estimated Net Effect on FTE	0	<6 FTE>	<9 FTE>	<10 FTE>

☐ Estimated Net Effect (expenditures or reduced revenues) expected to exceed \$100,000 in any of the three fiscal years after implementation of the act.

ESTIMATED NET EFFECT ON LOCAL FUNDS				
FUND AFFECTED	FY 2020	FY 2021	FY 2022	Fully Implemented (FY 2026)
Local Government	Unknown to (Unknown)	Unknown to (Unknown)	Unknown to (Unknown)	Unknown to (Unknown)

FISCAL ANALYSIS

ASSUMPTION

§§579.015, 579.020, and 579.030 - Marijuana-related offenses

Officials from the **Department of Corrections (DOC)** estimate the impact of Sections 579.015 and 579.020 is determined by looking at persons committed for marijuana-only offenses. In 2018, thirty people were incarcerated and 383 were given probationary terms of cannabis-only violations. The average sentence is 7.0 years with 0.9 served before first release; the average probationary term is three years.

The proposed section 579.030 changes distance, time, and weight amounts of cannabis, synthetic cannabinoid and cannabis concentrate that generate a violation of distribution of a controlled substance in a protected location. In FY18, seven persons were charged under 579.030, RSMo. No accessible data exists on distance, time, and weight of drug; therefore, how these changes would affect the number of persons charged with this violation is unknown.

Passage of HB 1095 is estimated to result in 30 fewer persons incarcerated and 383 fewer persons entering probationary supervision per year in DOC. The full impact of the bill occurs in FY26 with 90 fewer persons incarcerated and 1,269 fewer persons on field supervision. It is estimated that ten fewer Probation and Parole Officers would be needed if this legislation is passed.

	FY2020	FY2021	FY2022	FY2023	FY2024	FY2025	FY2026	FY2027	FY2028	FY2029
New Admissions										
Current Law	30	30	30	30	30	30	30	30	30	30
After Legislation	0	0	0	0	0	0	0	0	0	0
Probation										
Current Law	383	383	383	383	383	383	383	383	383	383
After Legislation	0	0	0	0	0	0	0	0	0	0
Change (After Legislation - Current Law)										
Admissions	-30	-30	-30	-30	-30	-30	-30	-30	-30	-30
Probations	-383	-383	-383	-383	-383	-383	-383	-383	-383	-383
Cumulative Populations										
Prison	-30	-60	-90	-90	-90	-90	-90	-90	-90	-90
Parole				-30	-60	-90	-120	-120	-120	-120
Probation	-383	-766	-1149	-1149	-1149	-1149	-1149	-1149	-1149	-1149
Impact										
Prison Population	-30	-60	-90	-90	-90	-90	-90	-90	-90	-90
Field Population	-383	-766	-1,149	-1,179	-1,209	-1,239	-1,269	-1,269	-1,269	-1,269
Population Change	-413	-826	-1239	-1269	-1299	-1329	-1359	-1359	-1359	-1359
P&P Officers + or -		-6.0	-9.0	-9.0	-10.0	-10.0	-10.0	-10.0	-10.0	-10.0

ASSUMPTION (continued)

	Number to/from prison	Cost per year	Total Costs for prison	Number to/from probation & parole	Change in Probation /Parole Officers	Total cost for probation and parole	Grand Total - Prison and Probation (includes 2% inflation)
Year 1	(30)	(\$6,287)	\$157,175	(383)	0	\$0	\$157,175
Year 2	(60)	(\$6,287)	\$384,764	(766)	(6)	\$393,274	\$778,038
Year 3	(90)	(\$6,287)	\$588,690	(1,149)	(9)	\$596,247	\$1,184,936
Year 4	(90)	(\$6,287)	\$600,463	(1,179)	(10)	\$602,658	\$1,203,122
Year 5	(90)	(\$6,287)	\$612,473	(1,209)	(10)	\$676,830	\$1,289,302
Year 6	(90)	(\$6,287)	\$624,722	(1,239)	(10)	\$684,113	\$1,308,835
Year 7	(90)	(\$6,287)	\$637,216	(1,269)	(10)	\$691,496	\$1,328,713
Year 8	(90)	(\$6,287)	\$649,961	(1,269)	(10)	\$698,955	\$1,348,915
Year 9	(90)	(\$6,287)	\$662,960	(1,269)	(10)	\$706,501	\$1,369,461
Year 10	(90)	(\$6,287)	\$676,219	(1,269)	(10)	\$714,149	\$1,390,368

Oversight does not have any information contrary to that provided by DOC. Therefore, Oversight will reflect DOC's impact for fiscal note purposes.

Officials from the **Office of State Public Defender (SPD)** state if passed, this legislation would have a positive impact on the workload of SPD. Possession of less than one hundred grams of marijuana would no longer be a class A misdemeanor but would be an infraction which does not require jail time. Distribution of more than one hundred grams would be downgraded to a class A misdemeanor from a class E felony. Distribution of less than one hundred grams would become an infraction. These infractions are currently offenses the SPD uses resources to defend, but with the passage of this legislation would no longer need to.

The exact positive impact is difficult to predict because we track our cases by statutory offense and most drug offenses are not limited to marijuana. For purposes of this fiscal note, SPD will use 25 percent of the cases relating to marijuana, although in this instance it could be less than the 25 percent reduction because this bill does not eliminate all marijuana charges.

The chart below shows the number of "drug" related offenses opened by SPD's Trial Division in FY2018 under the statutes that are being changed.

ASSUMPTION (continued)

<u>Offense</u>	<u>Cases</u>	<u>Reduction of</u>	<u>Cases</u>
30 D = A/B Felony - Drug	10	25%	3
30 F = A/B Felony - Other	1	25%	0
35 D = C/D/F Felony - Drug	8,327	25%	2,082
35 F = C/D/E Felony - Other	117	25%	29
45 M = Misdemeanor	<u>319</u>	25%	<u>80</u>
Total	8,774		2,194
Total Non-Probation Cases = 47,938	Percentage of Total No-Probation Violation Cases = 4.58%		
65 F = Felony Probation Violations	12,974		
65 M = Misdemeanor Probation Violations	<u>2,483</u>		
Total	15,457	PV's Using 4.58%	707
Grand Total Misdemeanors and Felonies	<u><u>24,231</u></u>		<u><u>2,901</u></u>

According to *The Missouri Project: A Study of the Missouri Public Defender System and Attorney Workload Standards* (RubinBrown, June 2014), the relevant workload standards are A/B felonies, 47.6 hours per case; C/D felonies, 25.0 hours per case; misdemeanors, 11.7 hours per case; and probation violations, 9.8 hours per case. The workload standards include only case related tasks over which an attorney has some control. The study excludes in-court and travel time and thereby reflects a conservative estimate.

Applying those workload standards to the 2,901 cases would require 60,768 attorney hours. With 2,080 hours per attorney each year, this represents the work of 29 attorneys.

Therefore, despite the positive impact on the workload of the SPD, this reduction in attorney time would not allow the SPD to reduce its workforce and, therefore, would not translate into an actual cost savings.

Oversight assumes the SPD would not realize an overall savings from this proposal but instead would reallocate resources within its operations. Therefore, Oversight will reflect a \$0 impact for fiscal note purposes.

ASSUMPTION (continued)

Officials from the **St. Louis County Police Department** state this bill would require the St. Louis County Police Department to provide 30 minutes of training for 930 commissioned officers at an average cost of \$46.72 per hour per officer or approximately \$21,725 ($\$46.72 * 0.50 * 930$).

Oversight notes the cost for the St. Louis County Police Department. Oversight is unable to project a statewide cost; therefore, the impact to local governments - police and sheriffs' departments will be presented as \$0 to (Unknown). Also, Oversight assumes police departments and sheriffs departments would realize some amount of savings in jail costs resulting from this proposal.

Oversight notes that the **Department of Public Safety - Missouri State Highway Patrol, Missouri Office of Prosecution Services, Office of State Courts Administrator, Joplin Police Department, Springfield Police Department** and **St. Louis County Department of Justice Services** have stated the proposal would not have a direct fiscal impact on their organizations. Oversight does not have any information to the contrary. Therefore, Oversight will reflect a zero impact in the fiscal note for these agencies.

Oversight only reflects the responses that we have received from state agencies and political subdivisions; however, other police and sheriffs' departments were requested to respond to this proposed legislation but did not. For a general listing of political subdivisions included in our database, please refer to www.legislativeoversight.mo.gov.

FISCAL IMPACT - State Government

FY 2020
(10 Mo.)

FY 2021

FY 2022

Fully
Implemented
(FY 2026)

GENERAL REVENUE FUND

Savings - DOC
(§§579.015,
579.020, 579.030)

Reduction in the number of persons incarcerated or on probation/parole

\$157,175 to
Unknown

\$778,038 to
Unknown

\$1,184,936 to
Unknown

\$1,328,713 to
Unknown

**ESTIMATED NET
EFFECT TO THE
GENERAL
REVENUE FUND**

\$157,175 to
Unknown

\$778,038 to
Unknown

\$1,184,936 to
Unknown

\$1,328,713 to
Unknown

Estimated Net FTE
Reduction for
General Revenue

0 FTE

6 FTE

9 FTE

10 FTE

<u>FISCAL IMPACT -</u> <u>Local Government</u>	FY 2020 (10 Mo.)	FY 2021	FY 2022	Fully Implemented (FY 2026)
LOCAL GOVERNMENT - POLICE AND SHERIFFS' DEPARTMENTS				
<u>Savings -</u> Police/Sheriffs' Departments - prison costs (§§579.015, 579.020, 579.030)	Unknown	Unknown	Unknown	Unknown
<u>Costs -</u> Police/Sheriffs' Departments (§§579.015, 579.020, 579.030) Increased training costs	<u>\$0 to (Unknown)</u>	<u>\$0 to (Unknown)</u>	<u>\$0 to (Unknown)</u>	<u>\$0 to (Unknown)</u>
ESTIMATED NET EFFECT ON LOCAL GOVERNMENT - POLICE AND SHERIFFS' DEPARTMENTS	<u>Unknown to (Unknown)</u>	<u>Unknown to (Unknown)</u>	<u>Unknown to (Unknown)</u>	<u>Unknown to (Unknown)</u>

FISCAL IMPACT - Small Business

No direct fiscal impact to small businesses would be expected as a result of this proposal.

FISCAL DESCRIPTION

Currently, the offense of possession of a controlled substance except 35 grams or less of marijuana is a class D felony. This bill removes the amount requirement for marijuana and excepts marijuana concentrate. The offense of possession of 10 grams or less of marijuana is currently a D misdemeanor. This bill specifies that the offense of possession of 100 grams or less of marijuana or an amount equivalent to 100 grams or less of marijuana concentrate is an infraction.

Currently, the offense of delivery of a controlled substance except 35 grams or less of marijuana is a class C felony. This bill removes the amount requirement for marijuana and excepts marijuana concentrate. The offense of delivery of 35 grams or less of marijuana is a class E felony. This bill specifies that the offense of delivery of more than 100 grams but less than 30,000 grams of marijuana or an amount equivalent to more than 100 grams but less than 30,000 grams of marijuana concentrate is a class A misdemeanor.

The offense of delivery of 100 grams or less of marijuana or synthetic cannabinoid or an amount equivalent to 100 grams or less of marijuana concentrate is an infraction.

Currently, the offense of delivery of 35 grams or less of marijuana to a person under 17 who is at least two years younger than the defendant is a class C felony. This bill changes it to 100 grams or less of marijuana or an amount equivalent to 100 grams or less of marijuana concentrate and it changes the penalty to a D felony.

The offense of delivery of a controlled substance is a class C felony if the delivery or distribution is more than 100 grams but less than 30,000 grams of marijuana or synthetic cannabinoid or an amount equivalent to more than 100 grams but less than 30,000 grams of marijuana concentrate to a person under 17 who is at least two years younger than the defendant.


Currently, 35 grams or less of marijuana is excepted from the offense of distribution of a controlled substance in a protected location. This bill increases the amount excepted to 100 grams or less and excepts an amount equivalent to 100 grams or less of marijuana concentrate. The offense is committed if the distribution, delivery, or sale is committed within 2,000 feet of certain places, and this bill reduces the distance to 1,000 feet. Additionally, the distribution, delivery, or sale must take place between the hours of 6 AM and 10 PM.

This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

Department of Corrections
Department of Public Safety -
 Missouri State Highway Patrol
Missouri Office of Prosecution Services
Office of State Courts Administrator
State Public Defender's Office
Joplin Police Department
Springfield Police Department
St. Louis County Department of Justice Services
St. Louis County Police Department

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March 26, 2019



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